

**IDAPA 18
TITLE 01
CHAPTER 27**

18.01.27 - SELF-FUNDED EMPLOYEE HEALTH CARE PLANS RULE

000. LEGAL AUTHORITY.

This rule is promulgated and adopted pursuant to the authority vested in the Director under Title 41, Chapter 2, Idaho Code. (4-5-00)

001. TITLE AND SCOPE.

01. Title. This rule shall be cited in full as Idaho Department of Insurance Rule, IDAPA 18.01.27, "Self-Funded Employee Health Care Plans Rule." (4-5-00)

02. Scope. The purpose of this rule is to supplement the provisions of Title 41, Chapter 40, Idaho Code, Self-Funded Health Care Plans by providing: (4-5-00)

- a. Dates of application for registration; (4-5-00)
- b. Requirements for application for registration; (4-5-00)
- c. Rules regarding investigation of applications; (4-5-00)
- d. Definition of required liabilities; and establishment of reserve bases; and (4-5-00)
- e. To provide an effective date. (4-5-00)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv). Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying in accordance with the public records act. (3-30-2007)

003. ADMINISTRATIVE APPEALS.

All administrative appeals shall be governed by Chapter 2, Title 41, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Sections 101 through 400. (3-30-2007)

004. INCORPORATION BY REFERENCE.

There are no documents to be incorporated by reference. (3-30-2007)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS AND WEB SITE.

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. (3-30-2007)

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. (3-30-2007)

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho

83702-0043.

(3-30-2007)

04. Web Site Address. The department's website is <http://www.doi.idaho.gov>.

(3-30-2007)

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code.

(3-30-2007)

007. -- 009. (RESERVED)

010. DEFINITIONS.

All terms defined in Title 41, Chapter 40, Idaho Code, which are used in this rule shall have the same meaning as used in that Chapter.

01. "All contributions to be paid in advance" is defined as contributions are to be paid in advance of the coverage period for which the contribution is made.

02. "Deposited in and disbursed from a trust fund" means all contributions based on calculated rates in accordance with Rule 27.028 (IDAPA 18.01.27.028) shall be deposited into the trust fund and all expenses shall be paid out of the trust fund.

(4-5-00_____)

011. -- 020. (RESERVED)

021. QUALIFICATION OF PLAN.

In order for a plan to qualify under Title 41, Chapter 40, Idaho Code, the plan's trust must be established by agreement between the employer or employers or a postsecondary educational institution and the trustee of the trust, for the sole purpose of providing health care benefits to employees of the employer or employers or to a student or students of the postsecondary educational institution.

(3-30-2007_____)

022. REGISTRATION.

01. Registration Required. No self-funded plan, unless exempted from registration by Section 41-4003(2), Idaho Code, shall be organized and permitted to operate in the state of Idaho without securing a Certificate of Registration from the Director of insurance.

(4-5-00)

02. Specific Plans. Any plans covering the employees of a common employer shall be deemed to be a single plan in respect to the exemption for registration allowed in Section 41-4003(2)(a), Idaho Code. Any combinations of plans under the effective control of a single administrator, trustee, and/or employer, or group of administrators, trustees and/or employers utilizing or attempting to utilize the exempt dollar amounts permitted under Section 41-4003(2)(a), Idaho Code in order to avoid registration of any such plans is deemed to be contrary to the intent of Chapter 40, Title 41, Idaho Code, and is expressly prohibited by this rule.

(4-5-00)

03. Beneficiary Within State. Registration is required of Plans that cover any beneficiary working or residing within this state, unless the plans are otherwise exempted by Section 41-4003(2), Idaho Code.

(3-30-2007)

~~023. APPLICATION FOR REGISTRATION.~~

~~**01. Application.** The application must include each of the requirements set out in Section 41-4005, Idaho Code. The projected income and disbursement statement referenced in Section 41-4005(2)(d), Idaho Code, must be certified by an actuary meeting the qualifications of Section 41-4005(6), Idaho Code, and accompanied by a description of assumptions used in projecting income and disbursements together with bases used to estimate amounts reserved for claims.~~

(3-30-2007_____)

~~**02. Trust Agreement.**~~

(3-30-2007)

~~_____ a. _____ The trust agreement must comply with Title 41, Chapter 40, Idaho Code, and, to the extent not in conflict with Title 41, the trust agreement must also comply with Title 68, Idaho Code, and Title 15, Chapter 7, Idaho Code. The trust agreement must contain, at a minimum, the conditions set forth in Section 41-4004, Idaho Code. (3-30-2007)~~

~~_____ b. _____ The term irrevocable as used in Section 41-4004(1), Idaho Code, means that the plan sponsor cannot retain the power to alter, amend, revoke or terminate the transfer in trust. The trustee may, pursuant to the terms of the trust agreement, amend the terms of the trust agreement for the purpose of complying with applicable law. (3-30-2007)~~

~~_____ 03. _____ **Biographical Affidavit.** The application must be accompanied by a biographical affidavit for each trustee on a form acceptable to the Director. (3-30-2007)~~

023. INVESTIGATION OF PROPOSED APPLICATION FOR REGISTRATION.

The Director may make an investigation of matters accompanying the application for registration as deemed necessary including an examination specified in Section 41-4013, Idaho Code. At the direction of the director, the ~~c~~Costs of any investigation and/or examination may ~~shall~~ be borne by the trust fund of the plan. (4-5-00_____)

024. CONTRIBUTIONS RECEIVABLE -- ASSET.

The trust fund may take credit as an asset in any financial statement for contributions receivable which are not in excess of ~~ninety sixty~~ (90/60) days past due. (7-1-93_____)

025. TRUST FUND RESERVES AND SURPLUS.

01. Reserve Requirements. The trust fund of the plan must continuously maintain reserves sufficient as certified by a qualified actuary as being necessary to fully fund payment of all benefits in effect at the time a claim thereunder arises. This reserve must adequately provide for all reasonably estimated future claim payments, adjustment expenses, and litigation expenses on claims which have arisen, including claims incurred but not reported, extended benefits and maternity benefits, if any. (7-1-93_____)

02. Reserves for Disability Income Benefits. Reserves established for disability income benefits shall be in an amount not less than reserves determined by the Minimum Reserve Standards for Group Health Insurance Contracts set forth in the NAIC's Accounting Practices and Procedures Manual as adopted by the Director unless it can be proven to the satisfaction of the Director that a lower reserve can be actuarially justified. (3-30-2007)

03. Certification by Actuary. Reserves must be certified annually by an qualified actuary who meets ~~the requirements of Section 41-4005(6), Idaho Code,~~ such certification must be accompanied by a statement describing bases used in reserve determination. The certification shall be in a form acceptable to the Director. (3-30-2007_____)

04. Insolvent Condition. If determination of surplus reveals a deficiency in surplus, the Director may, in his discretion, allow the plan a period of time not exceeding (90) days to accumulate required surplus. The plan shall be deemed to be insolvent when in accordance with the judgment of the Director the plan is either unable to pay its obligations when they are due or its assets do are not sufficient to meet exceed all its liabilities, including required reserves. (3-30-2007_____)

~~_____ 05. _____ **Surplus.** The trust fund of a self-funded plan shall maintain a surplus equal to thirty percent (30%) of unpaid claim liability of the plan. The total unpaid claim liability to which the thirty percent (30%) is calculated against includes total claims reported and not yet paid, claims incurred but not yet reported, adjustment expenses, litigation expenses, extended benefits and maternity benefits, if any. A newly formed self-insured plan with no prior operating history shall maintain surplus of not less than ten percent (10%) of unpaid claim liability of the plan during the first year and not less than twenty percent (20%) of the unpaid claim liability of the plan during its second year of operation. The unpaid claim liability includes total claims reported and not yet paid, claims incurred but not yet reported, adjustment expenses, litigation expenses, extended benefits and maternity benefits, if any. (3-30-2007_____)~~

~~06. **Letter of Credit.** To qualify as surplus, the clean, irrevocable, unconditional and "evergreen" letter of credit must be issued by a qualified United States financial institution having a branch office in Idaho. Qualified financial institution shall have the same definition as set forth in Section 41-514(3), Idaho Code.~~
(3-30-2007 _____)

026. BONDING.

01. Certified Copy of Bond. A certified copy of the fidelity bond or equivalent coverage, as required under Section 41-4014(3), Idaho Code, shall be furnished to the Director by the plan. (3-30-2007)

02. The fidelity bond or equivalent coverage must cover any person handling fiduciary funds on behalf of the Trust including, but not limited to, any signatory on a trust fund or account owned by the Trust.
(_____)

03. Cancellation of Bond Requirements. The fidelity bond or equivalent coverage must contain language stating that it is noncancellable except upon not less than thirty (30) days advance notice in writing to the trustee and the Director. A copy of any notice cancelling a bond required under Chapter 40, Title 41, Idaho Code, is to be forwarded to the Director by the surety at the same time it is forwarded to the trustee. (3-30-2007 _____)

04. Third Party Administrator. Any party that provides any one of the following services to the plan or trust must be licensed as a third party administrator in accordance with Title 41, Chapter 9, Idaho Code, and section 41-4014(4), Idaho Code:

- a. Directly or indirectly underwrites.
- b. Collects or handles charges or contributions, or
- c. Adjusts or settle claims on members or beneficiaries of the plan or trust. (_____)

027. CONTRIBUTION RATES.

01. Contribution Rate Calculation. Contribution rates shall be calculated at least annually by a qualified actuary. The contribution rate calculations should be broken down and designated as the rate for the employer and the rate per employee. (_____)

02. Employer Contributions. Employer contributions shall be based on filed rates, paid in advance on a periodic basis during the period of coverage or at the beginning of the period of coverage. (_____)

03. Annual Filing of Rates. The required annual filing of rates with the Director shall include the breakdown as required under the above subsection 28.01 (IDAPA 18.01.27.027.01).
(_____)

028. CONTRACTS AND SERVICES.

01. All goods and services provided to the Trust by any plan sponsor, employer, or other entity or employee or agent thereof, shall be in writing, setting forth in detail the rights and duties of each party to the writing; regardless of whether compensation, fees, or other consideration is paid or exchanged directly or indirectly.
(_____)

02. All contracts for goods and services including, but not limited to, accounting services, legal services, custodial agreements, lease, rent, insurance policies, etc., to be performed or entered into on behalf of the Trust shall be directly with the Trust as agreed by the board of Trustees and no other party. Before any contract, agreement or duty shall be binding upon the Trust, the same shall be in writing, shall be approved by resolution of the board of Trustees, and placed in the minutes and records of the Trust. (_____)

03. The trustees may not delegate or transfer the care, custody, or control of the trust funds or other responsibilities of the Trustees, but may by contract delegate to another qualified and responsible party the ministerial duties of the Trust. ()

029. TRUSTEES

01. Any and all acts, resolutions, appointments, or delegations, or other decisions of the board of Trustees shall be in writing and placed in the minutes and records of the Trust. ()

02. The full and accurate records and accounts of the Trust include, but are not limited to, minutes of the meetings of the board of trustees that document the acts, resolutions, appointments or delegations of the of the Trustees; any and all correspondence between the board of Trustees and contractors; accounting and actuarial records; and any and all records, correspondence, minutes, or statements as required by law or the trust agreement. ()

030. ANNUAL STATEMENT.

The trustee shall file an annual statement within ninety (90) days after the close of each fiscal year of the Plan and at such other time as may be determined by the Director. A quarterly statement shall be filed with the Director within sixty (60) days of the end of each quarter in a form acceptable to the Director. (3-30-2007)

031. SEVERABILITY CLAUSE.

If any provision of this rule, or the application thereof to any person or circumstance, is held invalid, the remainder of the rule, or the applicability of such provision to other persons or circumstances, shall not be affected thereby. (7-1-93)

033. -- 999. (RESERVED)